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|-------------|------------|
| CM/ACM | _____ |
| Finance | _____ |
| DA | _____ |
| Risk Mgt. | <u>N/A</u> |
| HR | <u>N/A</u> |
| Comptroller | <u>N/A</u> |

STAFF REPORT

BOARD MEETING DATE: February 9, 2016

DATE: February 1, 2016

TO: Board of County Commissioners

FROM: Kevin Schiller, Assistant County Manager
328-2008, kschiller@washoecounty.us

THROUGH: John Slaughter, County Manager
328-2060, jslaughter@washoecounty.us

SUBJECT: Possible action to direct staff on the creation of a Medical Marijuana Establishment (MME) Business License Fee Model and to initiate the process to adopt the approved model by ordinance and to adopt a Business Impact Statement pursuant to NRS 237.030 to NRS237.150. Further possible action to direct staff on initiating future code changes in the following areas regarding MME regulation: disallowing use of recreational marijuana; disallowing any recreational cross over with medical marijuana facilities; imposing more restrictive distance requirements for MMEs for areas in which minors are present; imposing increased security requirements for medical marijuana facilities; making changes to zoning requirements for future medical marijuana facilities to restrict their operation in certain types of commercial zones; requiring additional impact studies to gauge anticipated effects of MME operations on the surrounding community; and requiring any additional conditions to medical marijuana facilities required within business licensure. As directed, staff will initiate the code and bring forward within the required approval process. (All Commission Districts)

SUMMARY

Possible action to direct staff on the creation of a Medical Marijuana Establishment (MME) Business License Fee Model and to initiate the process to adopt the approved model by ordinance and to adopt a Business Impact Statement pursuant to NRS 237.030 to NRS237.150. Further possible action to direct staff on initiating future code changes in the following areas regarding MME regulation: disallowing use of recreational marijuana; disallowing any recreational cross over with medical marijuana facilities; imposing more restrictive distance requirements for MMEs for areas in which minors are present; imposing increased security requirements for medical marijuana facilities; making changes to zoning requirements for future medical marijuana facilities to restrict their operation in certain types of commercial zones; requiring additional impact studies to gauge anticipated effects of

MME operations on the surrounding community; and requiring any additional conditions to medical marijuana facilities required within business licensure. As directed staff will initiate the code and bring forward within the required approval process.

Washoe County Strategic Objective supported by this item: Safe, secure and healthy communities.

BACKGROUND

Washoe County Code (WCC) Chapter 25 (Business License Ordinance) and Chapter 110 (Development Code) were amended in April 2014 to regulate Medical Marijuana Establishments (MME) in unincorporated Washoe County. The County regulations were based on changes to NRS 453A passed by the 2013 session of the Nevada State Legislature. MMEs are principally regulated within WCC Chapter 25 as a MME business for the establishment and operation of any MME in the unincorporated County.

The 2015 Nevada State Legislature passed two bills that affect current County MME regulations:

- Section 3, Senate Bill 276 amends the current five mile restriction on relocation on any MME;
- Section 29, Assembly Bill 70 enables Washoe County to recover costs related to inspections, review, and other related tasks; and
- Section 5, Senate Bill 276 allocated a sixth Medical Marijuana dispensary to unincorporated Washoe County.

On September 22, 2016 the Board received the following summary of this legislation including the potential MME regulation impacts and options for the Board to consider for possible amendments to WCC Chapter 25 with approval and direction for the code changes as outlined. This is being provided within this report; given it is a change that will be inclusive in the other areas being brought before the Board for direction.

SECTION 3, SENATE BILL 276 (amends NRS 453A)¹

Section 3 amends the current five mile NRS 453A restriction on the relocation of any MME as follows:

2. A medical marijuana establishment may move to a new location under the jurisdiction of the same local government as its original location and regardless of the distance from its original location if the operation of the medical marijuana establishment at the new location as been approved by the local government. A local government may approve a new location pursuant to this subsection only in a public hearing for which written notice is given at least 7 working days before the hearing.

¹ Section 26.5 of Senate Bill 447 contained similar provisions for the relocation of an MME; with the exception that a public hearing was not required. Senate Bill 447 was signed into law by the Governor on June 11, 2015 and was effective on October 1, 2015.

Section 3 is effective on October 1, 2015; however, the section was effective on June 9, 2015 for the Division of Public and Behavioral Health to adopt any necessary regulations or perform any required administrative tasks necessary to carry out the provisions of the section.

Previous County regulations restrict any MME to property with a regulatory zone of commercial or industrial². Article 302, *Allowed Uses*, within WCC Chapter 110 (Development Code) outlines the specific commercial and industrial regulatory zones within which an MME is allowed. WCC Chapter 25 also restricts the location of any MME within 1,000 feet of a public or private school, or within 300 feet of a defined community facility³.

Possible amendments to WCC Chapter 25

Based on the Board direction, staff proposes that WCC Chapter 25 be amended as follows to regulate any future MME relocation request through a public hearing as required by Section 3:

1. The MME company and/or applicant must apply to the Board of County Commissioners for the new proposed location. The relocation application shall be on a form as set forth by the County's license division and shall, at a minimum, contain information that the proposed new location:
 - a. Satisfies the regulatory zone requirements for an MME as established in Article 302, *Allowed Uses*, of WCC Chapter 110 (Development Code).
 - b. Meets the distance restricts from a public or private school, or from a community facility, as established in WCC Section 25.700(3)(b). To satisfy this requirement, the MME Company and/or applicant must provide an attested certificate, as required by WCC Section 25.700(4).
2. The Board will hear the relocation application in a public hearing.
 - a. Written notice of the time, place and purpose of the public hearing, together with a map or physical description of the proposed new location, will be given to⁴:
 - i. Owners of the property(s) that is the proposed new location;
 - ii. Advisory boards created by the Board for the area in which the proposed new location is situated;
 - iii. All property owners within 750 feet of the proposed new location; and,
 - iv. All mobile home park tenants within 750 feet of the proposed new location.
 - b. The Board will take public testimony on the proposed relocation during the public hearing.
 - c. The Board may approve, approve with conditions, or deny the relocation application. Conditions imposed by the Board may be about matters to be done prior to the issuance of an MME business license, and/or operational conditions imposed as part of the MME business license pursuant to WCC Section 25.0263.
3. A Board approved relocation application is provisional, pending successful issuance of a Washoe County MME business license and other required Washoe County permits and licenses for the operation of the MME and of the business.

² These zoning restrictions mirror the MME zoning restrictions in NRS 453A.350(1).

³ WCC Section 25.700(3)(b); these location restrictions mirror the MME location restrictions in NRS 453A.322(3)(a)(2)(II).

⁴ Noticing requirements match those for a special use permit application, as established in WCC Section 110.810.25.

SECTION 29, ASSEMBLY BILL 70 (amends NRS 453A)

Section 29 enables Washoe County to recover from an MME any actual costs of a County agency to perform inspections, review or other related tasks to ensure the MME is in compliance with County ordinances. Section 29 also provides for the County to charge penalties and assess interest for nonpayment of any imposed fees. An MME may appeal any imposed fee to the “appropriate local government”. Attachment A contains the text of Section 29.

Assembly Bill 70 was approved by the Governor on June 8, 2015 and all sections were effective on October 1, 2015.

Possible amendments to WCC Chapter 25

Staff proposes that WCC Chapter 25 be amended to incorporate the provisions of Section 29. The following are the major areas from Section 29 to be included in County Code:

1. Each MME shall pay an inspection and review fee to a County agency as follows:
 - a. The inspection and review fee is the actual costs for the agency to perform inspections, reviews or other tasks related to ensuring that the MME is in compliance with County ordinances or rules.
 - b. The County agency shall provide records no later than 30 days after the agency performs required inspections or reviews to the MME detailing the actual costs. The records shall contain, at a minimum:
 - i. Hours its employees spent performing the required inspections or reviews.
 - ii. The rate of pay for such employees.
 - iii. Equipment costs attributable to the MME for the required inspections or review.
 - c. County agencies include the Health District, Sheriff’s Office, Truckee Meadows Fire Protection District, and County departments reporting to the Board of County Commissioners or the County Manager.
2. Any revenue from an inspection and review fee must:
 - a. Pay only the actual costs of the County agency to perform one or more inspections and/or to review or perform other tasks related to ensuring the MME is in compliance with County ordinances or rules; and,
 - b. Not supplant any other support provided to the County agency by Washoe County.
3. The inspection and review fee must be paid within 30 days after the MME receives the records from the County agency. Failure to pay the fee within the 30 days will result in:
 - a. A penalty of \$500; and,
 - b. Interest on the fee at the rate of 7 percent per year commencing 30 days after receipt of the records.

Unpaid inspection and review fees by an MME is cause for denial of an MME business license renewal pursuant to WCC Section 25.700(14) and are good cause for the suspension or revocation of an MME business license pursuant to WCC Section 25.018.

4. The inspection and review fee is appealable and will be heard by:
 - a. The Sheriff, or his designated agent, for Sheriff’s Office agencies.
 - b. The District Board of Health for Health District agencies.

- c. The Truckee Meadows Fire Protection District Board of Fire Commissioners for the Truckee Meadows Fire Protection District.
 - d. The Board of County Commissioners for County departments reporting to the Board of County Commissioners or the County Manager.
5. Any appeals of an inspection and review fee must be in writing to the appropriate hearing body no more than 30 days after the imposition of the fee by the County agency.
- a. The appeal must include documentation sufficient to show that the fee amount is unsubstantiated or erroneous. Failure to submit the documentation or failure to submit documentation sufficient to show that the fee amount is unsubstantiated or erroneous will result in the hearing body administratively dismissing the appeal.
 - b. Payment of the inspection and review fee is suspended until a decision on the appeal by the hearing body.
6. The hearing body shall hold a public hearing on the appeal. The hearing body may dismiss the appeal, or revise the amount of the inspection and review fee. The hearing body may revise the amount of the inspection and review fee only if it determines that the records provided by the County agency to the MME do not support the amount of the imposed fee.

Medical Marijuana Establishment Business License Fee Model

An MME holding a Washoe County MME business license currently pays an annual license fee of \$75 for its first fiscal year of operation as set forth in Washoe County Code (WCC) 25.025(6). Thereafter, the business pays an annual license fee as established in the Master Business License Fee Schedule adopted by the Washoe County Board of County Commissioners. These annual license fees are based on reported annual gross receipts and range from \$55 to \$655.

In follow up to prior updates, staff is recommending the following proposed MME business license fee structure which would be quarterly and structured after existing Washoe County intoxicating liquor license fees. With the proposed quarterly MME business license fee, during the first fiscal year of operation, an MME business will pay a fixed \$300 quarterly fee and an additional fixed \$50 quarterly fee for a total quarterly fee of \$350. Thereafter, an MME business will pay a fixed \$300 quarterly fee and an additional quarterly fee based on reported annual gross receipts. The additional quarterly fee will be \$1 for each \$1,000 in excess of \$25,000 of annual gross receipts.

Adverse effects: MME business licensees will pay a quarterly MME license fee instead of the current annual license fee. For comparison purposes between the current annual license fee and the proposed quarterly MME business license fee:

First fiscal year of operation:

| | |
|--|------|
| Current annual license fee: | \$75 |
| Proposed quarterly MME business license fee: | |

\$350 quarterly fee⁵ Total annual fee: \$1,400

Second and subsequent fiscal years of operation (assuming \$150,000 in reported annual gross receipts):

Current annual license fee: \$140

Proposed quarterly MME business license fee:

Fixed \$300 quarterly fee plus

Additional quarterly fee of \$125⁶

Total quarterly fee equals \$425

Total annual fee: \$1,700

MME business owners will experience an increase in business license fees with the proposed quarterly MME business license fee.

Beneficial effects: MME businesses require expenditure of public funds by multiple Washoe County agencies to ensure that the MME businesses are operated according to County Code and State Law. State Law allows the cost recovery of certain agency inspections associated MME businesses; however, the cost recovery does not cover all costs associated with the regulation of MME businesses by County agencies. The increased MME business license revenue will be placed into the County's general fund and will serve in a minor fashion to offset some of the additional MME business regulatory costs.

Additionally, MME businesses have second tier impacts associated with public safety, social services and public health. There are no State Law or County Code provisions to recover these second tier impacts, other than through the support of appropriate County agencies by the general fund. The additional MME business license revenue placed into the general fund will assist these agencies for second tier impact costs associated with MME businesses.

Direct effects: Any new or renewed MME business licensee will be required to pay the proposed quarterly MME business license fee. MME businesses in their first fiscal year of operation will pay a fixed quarterly license fee and an additional fixed quarterly license fee as described earlier. MME businesses renewing their MME business license will pay a fixed quarterly license fee and an additional quarterly license fee based on reported annual gross receipts as described earlier. Revenue realized from the

⁵ Consists of a fixed \$300 quarterly fee and an additional fixed \$50 quarterly fee for a total quarterly fee of \$350.

⁶ Additional quarterly fee is \$1 for each \$1,000 in excess of \$25,000 of reported annual gross receipts.

proposed MME business license fee will be deposited into the Washoe County general fund.

Indirect effects: Indirect effects stem from MME business operations and MME business customers on public safety, social services and public health not directly related to operations inside of an MME business. The proposed MME business license fee will assist in recovering a portion of costs by appropriate County agencies in addressing these indirect effects.

The Board can set the rate at any level; however legal implications or challenges could occur if MME is isolated beyond other business types within the existing fee structure. It is recommended that the rate be set as recommended. The proposed rule provides for a new fee, and the total annual amount of revenue Washoe County expects to collect from the new fee is as follows:

The State of Nevada issued 27 provisional medical marijuana registration certificates⁷ for unincorporated Washoe County. If all 27 medical marijuana businesses are issued a Washoe County MME business license, then the total annual revenue expected is as follows:

First fiscal year of operation:

| | |
|--|----------|
| \$1,400 annually per MME business license | |
| Total potential annual revenue (27 licenses) | \$37,800 |

Second and subsequent fiscal years of operation (assuming \$150,000 in reported annual gross receipts per licensee):

| | |
|--|----------|
| \$1,700 annually per MME business license | |
| Total potential annual revenue (27 licenses) | \$45,900 |

In addition a proposed Business Impact Statement is attached; any direction or changes from the proposed model will be incorporated as required.

⁷ Six medical marijuana dispensaries, 13 medical marijuana cultivation facilities, and eight facilities for the production of edible marijuana products or marijuana-infused products.

Recreational Marijuana: Impose Code for the disallowance of recreational Marijuana and/or to disallow any licensed medical marijuana dispensary to provide recreational marijuana

The Nevada Constitution was amended to legalize medical marijuana establishments based on a vote of the people in 1998 and 2000. Nevada state law was changed in 2001 to allow qualified patients to use medical marijuana. The state program was created following the strict regulatory model used by the state of Arizona. Nevada Constitution Article 4, Section 38, requires the Nevada Legislature to authorize the use of medical marijuana by a patient, upon the advice of his or her physician, for certain chronic or debilitating conditions. As a result the Nevada state law changed in 2013 to authorize the operation of medical marijuana establishments to produce, test and dispense medical marijuana and marijuana-infused products. Nevada Revised Statute further requires the licensing, taxation and regulation of medical marijuana establishments. Per requirements of the State, Washoe County Code was amended in April of 2014 to meet the requirements for licensing and regulating of medical marijuana facilities.

Recreational use of marijuana remains illegal at this time in the State of Nevada. A 2016 ballot measure "Initiative to Regulation and Tax Marijuana" (attached) was initiated as a statewide statutory measure to amend state law. The initial required signatures were obtained and this was submitted to the Secretary of State in accordance with requirements on April 23, 2014, with the legislature having 40 days to approve, deny, or take no action. With no denial or formal action being taken the item will now automatically be placed on the ballot in November of 2016. Twenty-three states and the District of Columbia have laws legalizing marijuana in some form. Of those, the District of Columbia, and four states, Alaska, Colorado, Washington, and Oregon have legalized recreational use of marijuana. Each of these states legalized medical marijuana previous to or with passage of recreational use. The most recent being the State of Oregon which was preceded by the State of Colorado approximately 18 months ago.

Given the ballot measure will not be voted on until November of 2016, no legislative action is currently being taken or under consideration. With the passage of Medical Marijuana within the 2013 legislative session, local jurisdictions were given the option to participate under the adopted statutes and regulations. It is currently unclear if passage occurs whether the same framework will be adopted for local jurisdictions. Under the current statewide statutory measure a maximum of 20 licenses will be issued in a county with a population that is less than 700,000 but more than 100,000 with an additional provision allowing the State Department of Public and Behavioral Health to issue additional retail marijuana store licenses per the request of the county government if meeting additional requirements as set forth in the measure.

At the present time the use of recreational marijuana remains illegal with no required action from the BCC, however based on recent concerns and constituent inquires on possible action specific to recreational use prior pending state passage the Board has three potential options:

- Take no action and await the passage of legislation specific to recreational use of marijuana;
- The Board could adopt a resolution of their intent to disallow the use of recreational marijuana within unincorporated Washoe County; or
- The Board could initiate changes to applicable Washoe County Code including but not limited to Chapter 25 making recreational use of marijuana illegal in Washoe County.
- The Board could initiate changes to applicable Washoe County Code including but not limited to Chapter 25, disallowing recreational sales through existing licensed Medical Marijuana dispensaries.

In both instances the State statute could override the any local code or ordinance within the local jurisdiction, however based on the previous statutory framework established for medical marijuana it is likely local jurisdictions will have the option to adopt the legalization of recreational use of marijuana.

On a related matter, staff continues work on the overall strategic objective specific to implementation of medical marijuana establishments and related impacts. This includes a recent on site visit to the City of Denver and collaboration with identified staff specific to impacts of both MME and the addition of recreational use becoming legal. Given it is likely any local jurisdiction may opt in for recreational use upon passage by the Legislature within Northern Nevada this would correlate to impacts on regional services provided by Washoe County. As a result, a focus area is development of a legislative platform to support the possible financial impacts to the County.

More Restrictive Distance Requirements: Impose code to provide for more restrictive distance requirements from an MME facility for areas in which minors are present

In compliance with the minimum standards set forth within NRS 453A the Board previously approved changes to Chapter 25 of the Washoe County Code specific to location of facilities in unincorporated Washoe County. A MME may not be located:

- Within 1000 feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12, and that existed on the date on which the application for the proposed MME was submitted to the County; or
- Within 300 feet of a community facility that existed on the date on which the application for the proposed MME was submitted to the County.

More restrictive code could be adopted to increase distances from public or private schools and any other areas such as bus stops, direction is sought specific to recommended distances, options include within a designated square mile radius. In addition, similar requirements could be adopted in regard to community centers. Constituents have requested significant

increases in the distances for future MME facilities within both these areas. If directed staff will draft code specific to the distance requirement and type of measurement adopted by the Board which could be distances in feet or miles of the designated facilities.

Zoning Requirements: Impose code to requirements for Medical Marijuana Establishments to restrict their operation in certain types of commercial zones.

Pursuant to the current Washoe County Development Code, Chapter 110, an MME may be placed on an eligible parcel within Neighborhood/Commercial Zoning. More restrictive zoning such as Industrial could be adopted for all future MME facilities. Zoning changes could also be utilized and applied to future recreational facilities and eligible parcels. A more restrictive zoning requirement for future MME facilities would also assist in other areas for further restrictions previously outlined if approved through the Board.

Security Requirements: Impose code to increase security requirements for MME facilities

NRS 453A sets forth multiple security requirements for all MME facilities, to include significant oversight and review at various levels within the Washoe County Business Licensure Process through the Washoe County Sheriff's Office and the State of Nevada. Additional more restrictive security requirements for all MME facilities and or specific types can be placed within Chapter 25, in addition the Board could direct additional law enforcements personnel to support areas which include an MME facilities, this would not require a code change, but could be facilitated within the budgetary process with the Washoe County Sheriff's Office.

Impact Studies Additional Conditions: Impose Code to require impact studies to gauge anticipated effects of MME operations on the surrounding community

In follow up to previous discussion from the Board, concerns have been brought forward regarding traffic impacts within MME locations. While this is not set out within NRS 453A, this would be initiated collaboratively with the State of Nevada and other Agencies as required. Washoe County Code could require additional review and or studies in other areas to gauge the anticipated effects of MME operations in the community.

FISCAL IMPACT

There is a fiscal impact associated with this staff report if the fee model is adopted as outlined. Additional impacts may result with any direction on additional FTE positions to support the Washoe County Sheriff's Office within the area of increased for areas containing an MME facility.

RECOMMENDATION

It is recommended the Board of County Commissioners direct staff on the creation of a Medical Marijuana Establishment (MME) Business License Fee Model and to initiate the process to adopt the approved model by ordinance and to adopt a Business Impact Statement pursuant to NRS 237.030 to NRS237.150. Further possible action to direct staff on initiating

future code changes in the following areas regarding MME regulation: disallowing use of recreational marijuana; disallowing any recreational cross over with medical marijuana facilities; imposing more restrictive distance requirements for MMEs for areas in which minors are present; imposing increased security requirements for medical marijuana facilities; making changes to zoning requirements for future medical marijuana facilities to restrict their operation in certain types of commercial zones; requiring additional impact studies to gauge anticipated effects of MME operations on the surrounding community; and requiring any additional conditions to medical marijuana facilities required within business licensure. As directed staff will initiate the code and bring forward within the required approval process.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be:

“Move to direct staff on the creation of a Medical Marijuana Establishment (MME) Business License Fee Model and to initiate the process to adopt the approved model by ordinance and to adopt a Business Impact Statement pursuant to NRS 237.030 to NRS237.150. Further possible action to direct staff on initiating future code changes in the following areas regarding MME regulation: disallowing use of recreational marijuana; disallowing any recreational cross over with medical marijuana facilities; imposing more restrictive distance requirements for MMEs for areas in which minors are present; imposing increased security requirements for medical marijuana facilities; making changes to zoning requirements for future medical marijuana facilities to restrict their operation in certain types of commercial zones; requiring additional impact studies to gauge anticipated effects of MME operations on the surrounding community; and requiring any additional conditions to medical marijuana facilities required within business licensure. As directed staff will initiate the code and bring forward within the required approval process.”



Community Services Department

Planning & Development Division

DRAFT

MONTH 2016

Medical Marijuana Establishment

Business License Fee

Business Impact Statement

INTRODUCTION

The following Business Impact Statement (BIS) was prepared pursuant to Nevada Revised Statutes (NRS) section 237.080 to address the potential impact of a proposed new business license fee for Medical Marijuana Establishments (MME) holding a Washoe County MME business license. This proposed fee classifies as a rule as defined in NRS 237.060 and, therefore, is subject to the provisions of NRS 237.030 to 237.150, inclusive.

An MME holding a Washoe County MME business license currently pays an annual license fee of \$75 for its first fiscal year of operation as set forth in Washoe County Code (WCC) 25.025(6). Thereafter, the business pays an annual license fee as established in the Master Business License Fee Schedule adopted by the Washoe County Board of County Commissioners. These annual license fees are based on reported annual gross receipts and range from \$55 to \$655.

The proposed MME business license fee will be quarterly and structured after existing Washoe County intoxicating liquor license fees. With the proposed quarterly MME business license fee, during the first fiscal year of operation, an MME business will pay a fixed \$300 quarterly fee and an additional fixed \$50 quarterly fee for a total quarterly fee of \$350. Thereafter, an MME business will pay a fixed \$300 quarterly fee and an additional quarterly fee based on reported annual gross receipts. The additional quarterly fee will be \$1 for each \$1,000 in excess of \$25,000 of annual gross receipts.

BUSINESS IMPACT STATEMENT

- A. *The following constitutes a description of the manner in which comment was solicited from affected businesses, a summary of their response, and an explanation of the manner in which other interested persons may obtain a copy of the summary (List all trade associations or owners and officers of businesses likely to be affected by the proposed rule that have been consulted).*

Medical marijuana establishment owners and/or companies which received a State of Nevada provisional medical marijuana registration certificate were notified by U.S. postal mail of the proposed MME business license fee on ---. Holders of a Washoe County MME business license were also notified by U.S. postal mail of the proposed MME business license fee on the same date.

Trade associations mailed a notice:

- American Business Women's Association
- Builders Association of Northern Nevada (agency meeting held)
- Economic Development Authority of Western Nevada
- Incline Village General Improvement District
- National Federation of Independent Business
- Nevada Business Connections
- Nevada Chapter AGC (agency meeting held)
- Nevada Microenterprise Initiative
- Nevada Motor Transport Association
- Nevada Small Business Development Center
- Nevada Taxpayers Association
- North Lake Tahoe Chamber of Commerce
- Northern Nevada NAIOP
- NPM & CSA
- Reno-Sparks Chamber of Commerce, The Chamber (agency meeting held)
- Retail Association of Nevada

The post card notice included a web site link to a *Potential Impact to a Business* (see Attachment A) for the proposed quarterly MME business license fee, and included contact information for questions and comments. The notice requested that written comments, arguments or data on the proposed MME business license fee be submitted no later than. The notice also advertised a public workshop held on--- The public workshop was also advertised in the *Reno Gazette-Journal* as a legal advertisement. The public workshop was hosted by Washoe County for the public to discuss the potential impacts of the proposed MME business license fee on a business. Attendees were encouraged to ask questions, and were solicited to submit comments, arguments or data on any potential impacts.

Washoe County received --letters and --- e-mails from citizens in response to the notice. Of those responses, one letter addressed consolidation (a topic not a part of the proposed regional technology fee) and -- e-mails asked clarifying questions or addressed topics such as filing complaints and royalty fees (both topics not part of the proposed regional technology fee). The remaining two letters and 11 e-mails were opposed to any fee increases. All letters and e-mails are available upon request for review.

Comments, responses, arguments and data received during the comment period and during the public workshop were incorporated into this Business Impact Statement (BIS). Interested persons may obtain a copy of this BIS at the following location:

Administrative Complex, Building A
CSD Information Desk (Second floor)
1001 East Ninth Street, Reno

A copy of this BIS is also posted on-line at www.washoecounty.us/mme.

- B. *The following constitutes a description of the estimated economic effect of the proposed rule on the businesses which the rule is to regulate, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects.*

The proposed MME business license fee will be a quarterly license fee. During the first fiscal year of operation, an MME business will pay a fixed \$300 quarterly fee and an additional fixed \$50 quarterly fee for a total quarterly fee of \$350. Thereafter, an MME business will pay a fixed \$300 quarterly fee and an additional quarterly fee based on reported annual gross receipts. The additional quarterly fee will be \$1 for each \$1,000 in excess of \$25,000 of annual gross receipts.

Adverse effects: MME business licensees will pay a quarterly MME license fee instead of the current annual license fee. For comparison purposes between the current annual license fee and the proposed quarterly MME business license fee:

First fiscal year of operation:

| | |
|--|---------------------------|
| Current annual license fee: | \$75 |
| Proposed quarterly MME business license fee: | |
| \$350 quarterly fee ¹ | Total annual fee: \$1,400 |

Second and subsequent fiscal years of operation (assuming \$150,000 in reported annual gross receipts):

| | |
|--|---------------------------|
| Current annual license fee: | \$140 |
| Proposed quarterly MME business license fee: | |
| Fixed \$300 quarterly fee plus | |
| Additional quarterly fee of \$125 ² | |
| Total quarterly fee equals \$425 | |
| | Total annual fee: \$1,700 |

¹ Consists of a fixed \$300 quarterly fee and an additional fixed \$50 quarterly fee for a total quarterly fee of \$350.

² Additional quarterly fee is \$1 for each \$1,000 in excess of \$25,000 of reported annual gross receipts.

MME business owners will experience an increase in business license fees with the proposed quarterly MME business license fee.

Beneficial effects: MME businesses require expenditure of public funds by multiple Washoe County agencies to ensure that the MME businesses are operated according to County Code and State Law. State Law allows the cost recovery of certain agency inspections associated MME businesses; however, the cost recovery does not cover all costs associated with the regulation of MME businesses by County agencies. The increased MME business license revenue will be placed into the County's general fund and will serve in a minor fashion to offset some of the additional MME business regulatory costs.

Additionally, MME businesses have second tier impacts associated with public safety, social services and public health. There are no State Law or County Code provisions to recover these second tier impacts, other than through the support of appropriate County agencies by the general fund. The additional MME business license revenue placed into the general fund will assist these agencies for second tier impact costs associated with MME businesses.

Direct effects: Any new or renewed MME business licensee will be required to pay the proposed quarterly MME business license fee. MME businesses in their first fiscal year of operation will pay a fixed quarterly license fee and an additional fixed quarterly license fee as described earlier. MME businesses renewing their MME business license will pay a fixed quarterly license fee and an additional quarterly license fee based on reported annual gross receipts as described earlier. Revenue realized from the proposed MME business license fee will be deposited into the Washoe County general fund.

Indirect effects: Indirect effects stem from MME business operations and MME business customers on public safety, social services and public health not directly related to operations inside of an MME business. The proposed MME business license fee will assist in recovering a portion of costs by appropriate County agencies in addressing these indirect effects.

- C. *The following constitutes a description of the methods that Washoe County considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any of these methods were used (Include whether the following was considered: simplifying the proposed rule; establishing different standards of compliance for a*

business; and, if applicable, modifying a fee or fine set forth in the rule so that a business could pay a lower fee or fine).

The proposed MME business license fee will assist in recovering direct and indirect costs associated with MME business operations and MME business customers. Rather than suggesting a very large flat fee for MME businesses as has been the trend in other jurisdictions; Washoe County elected to pursue a quarterly fee based in part on reported annual gross receipts. This means that impacts associated with the proposed MME quarterly business license fee will be directly connected to the scope of an MME business and its operations. An MME business with a small scope of operations will have associated smaller direct and indirect impacts than an MME business with a large scope of operations. The smaller scope business will, therefore, pay less quarterly MME business license fees than the larger scope MME business.

D. Washoe County estimates that the annual cost for enforcement of the proposed rule is:

Failure to pay the quarterly MME business license fee within 30 days after the fee date will result in automatic revocation of the MME business license. The revoked MME business license cannot be reinstated until all delinquent MME business license fees are paid, together with an additional 25% penalty fee and an additional 15% reinstatement fee. Consequently, enforcement costs are limited to administrative costs associated with revoking and/or reinstating an MME business license. These administrative costs are minimal, and include notification to the licensee of revocation and reinstatement of the license if applicable. The administrative costs should account for no more than 5 hours of time for a business license clerk at maximum hourly wage rate of \$24.40. Annual enforcement costs should be no more \$122.

E. Bi

F. The money generated by the new fee will be used by Washoe County to:

The money generated from the proposed quarterly MME business license fee will help offset direct and indirect impacts associated with MME business operations and MME business customers. The direct costs include inspections and oversight by multiple Washoe County agencies to ensure MME business operations comply with County Code and State Law. The indirect costs include public safety, social services and public health impacts from MME businesses or MME business customers not directly related to operations inside of an MME business. The proposed fee will not cover all associated direct and indirect costs incurred by Washoe County.

G. The proposed rule does not duplicate, nor is it more stringent, than federal, state or local standards regulating the same activity; therefore, no duplicative or more stringent provisions are necessary.

The proposed regional technology fee does not duplicate, nor is it more stringent, than federal, state or local standards regulating businesses and business licenses in Washoe County. NRS 244.335 empowers the Washoe County Board of County Commissioners to regulate businesses within unincorporated Washoe County, and to impose and collect a license tax for revenue and/or regulation for such businesses. Washoe County Code Chapter 25 was adopted by the Washoe County Board of County Commissioners to regulate businesses within Washoe County and the Code Chapter imposes business license fees. Currently, only the annual business license fee is imposed pursuant to NRS 244.335 and Washoe County Code Chapter 25 on MME businesses. The proposed quarterly MME business license fee will replace the annual business license fee.

H. The following constitutes an explanation of the reasons for the conclusions regarding the impact of the proposed rule on businesses:

The proposed quarterly MME business license fee will only apply to MME businesses issued an MME business license. There are approximately 5,500 businesses possessing a Washoe County business license (of any type). If all 27 companies issued a State of Nevada provisional medical marijuana registration certificate obtain a Washoe County MME business licenses, the businesses would constitute .005 percent of all licensed Washoe County businesses. The proposed fee, therefore, has an impact on a very small percentage of businesses licensed by Washoe County. Further, the fee is a mixture of a fixed quarterly license fee and an additional quarterly license fee based on reported gross annual receipts. So, the proposed quarterly MME business license fee's impact is partially dependent upon an MME business' scale of operation and sales.

After reviewing the comments, arguments and data provided by trade associations, MME businesses holding a Washoe County MME business license, and companies issued a provisional registration certificate, there is no significant economic burden imposed on a business by the proposed quarterly MME business license fee. Likewise, the proposed quarterly MME business license fee will not restrict the formation, operation or expansion of a business.

I. Contact information for this Business Impact Statement:

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(775) 328-3623

CERTIFICATION

I certify that, to the best of my knowledge or belief, the information contained in this Business Impact Statement was prepared properly and is accurate.

John Slaughter, Washoe County Manager

Date

END OF BUSINESS IMPACT STATEMENT